Supreme Court, U.S.
FILED
AUG 15 1986
JOSEPH F. SPANIOL, JR.
CLERK

No. 86-5

IN THE

Supreme Court of the United States

OCTOBER TERM, 1986

GREGORY R. ALLUSTIARTE, *et al.*,
Petitioners,

v.

W. AUSTIN COOPER, Trustee, for
BEN W. ALLUSTIARTE and LINDA M. ALLUSTIARTE,
Respondent.

On Petition For Writ Of Certiorari To The United States Court of Appeals For The Ninth Circuit

REPLY BRIEF FOR PETITIONERS

GREGORY R. ALLUSTIARTE, *et al.*
1021 Stanford Avenue
Modesto, California 95350
Telephone: (209) 523-0234

Petitioner Pro Se
with Power of Attorney for
Beneficiaries and Families

PRESS OF BYRON S. ADAMS, WASHINGTON, D.C. (202) 347-8203

CERTIFICATE OF INTERESTED PERSONS

The Petitioner states that while the trustee is only a temporary appointee in a Chapter XII Proceeding of the Bankruptcy Act, Ben W. Allustiarte and Linda M. Allustiarte, Debtors, are also interested persons as well as Benjamin A. Allustiarte, the Beneficiary of the Benjamin A. Allustiarte Trust, and Marianne Allustiarte Pack, the Beneficiary of the Marianne Allustiarte Trust.

It appears to the Petitioner that the following are corrected interested persons:

1. Petitioner ..... Gregory R. Allustiarte
2. Respondent ..... W. Austin Cooper
3. Debtor ..... Ben W. Allustiarte
4. Debtor ..... Linda M. Allustiarte
5. Beneficiary of Benjamin A. Allustiarte Trust .... Benjamin A. Allustiarte
6. Beneficiary of Marianne Allustiarte Trust ..... Marianne Allustiarte Pack

JURISDICTION

The Petitioner at all times in these proceedings has recorded the Power of Attorney and Representation for his younger brother and sister filed in the United States District Court For the Eastern District of California on September 12, 1983, Appendix "A".

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Petitioner believes the Constitutional and Statutory provisions are pertinent when a bankruptcy judge, and his court-appointed trustee conspired in dishonesty, or even fraud on many occasions in ex-parte contacts in violation of Federal Law, and could only prevail in the Findings of Facts, prepared by the trustee of the unworthy belief of the entire family, while half of the Appellants did not testify.

CORRECTED STATEMENT OF THE CASE

Trustee is in total err, Former Bankruptcy Judge Fredrick Reyland, (retired) on August 29, 1975 dismissed the prior Chapter XII proceedings and states:

> "The Debtors are FARMERS who may not be adjudicated bankrupts except upon their consent being filed with this court. *No such consent have been filed.*"

In the "Memorandum and Order" filed on January 28, 1976 the Honorable Philip C. Wilkins, Judge United States District Court For the Eastern District of California states:

> "With regard to the last minute proposal by one of the creditors, the proposal was for the

> Debtor to sell their FARM and distribute the assets to the creditors. Such a plan is nothing more than a straight bankruptcy plan. Chapter XII was meant to avoid such a result. Since the Debtors are FARMERS their consent was needed for an adjudication of bankrupt."

To enlighten the court the Petitioner declares the Debtors have not changed their profession to date. They followed in the same footsteps as their parents and grandparents before them *"FARMERS"*.

The Petitioners were never served a copy of the former trustee's fee application on May 21, 1985, due to the hatred involved, and was only aware while researching the Bankruptcy Court files.

The Debtors in these proceedings are our parents and state of the miscarriage in justice by what was a conspiracy during these proceedings. Appendix "B"

CONCLUSION

The Petitioner(s) and the Debtors in this case have posted sufficient cash, commitment loans on three (3) occasions to pay all creditors, but only to be aborted by a claimant.

This scandalous defamatory form of justice, with the court in violation of Federal Law which hindered Petitioners appeals in the lower courts warrants an investigation by the United States Department of Justice, so that no other human being, citizens of these United States are ever again abused of their constitutional rights, as provided by this Supreme Court of the United States.

The Petitioners respectfully request a Petition for Writ of Certiorari be issued.

Respectfully submitted:

GREGORY R. ALLUSTIARTE, et al.,
1021 Stanford Avenue
Modesto, California 95350
Telephone: (209) 523-0234
Petitioner Pro Se with
Power of Attorney for
Beneficiaries and Families

APPENDIX

POWER OF ATTORNEY AND REPRESENTATION

We, Marianne Allustiarte, as Beneficiary of the MARIANNE ALLUSTIARTE TRUST, by a TRUST INDENTURE made and executed on November 9, 1961, and Benjamin A. Allustiarte, as Beneficiary of the BENJAMIN A. ALLUSTIARTE TRUST, by a TRUST INDENTURE made and executed on November 9, 1961, hereby give our brother Gregory R. Allustiarte, the POWER OF ATTORNEY, to represent us in all legal matters, court hearings, and appearances in connection, with the two hereinabove mentioned TRUSTS from this day forward.

DATED:
April 28, 1983

MARIANNE ALLUSTIARTE TRUST

BY: /s/ Marianne Allustiarte Pack
MARIANNE ALLUSTIARTE PACK,
BENEFICIARY

BENJAMIN A. ALLUSTIARTE TRUST

BY: /s/ Benjamin A. Allustiarte
BENJAMIN A. ALLUSTIARTE,
BENEFICIARY

ACCEPTANCE:

BY: /s/ Gregory R. Allustiarte
GREGORY R. ALLUSTIARTE
BROTHER TO THE TWO HEREINABOVE
BENEFICIARIES.

RECEIVED
SEP 12 1983
Clerk, U.S. Dist. Court
Sacramento

To the Honorable Chief Justice and Associate Justices of the Supreme Court of the United States:

We, the Debtors, in these proceedings are represented by Trustee W. Austin Cooper, and disagree with his dishonesty that we are not farmers, having no other profession as did our fathers before us, arriving from Europe.

The entire contents of this Chapter XII proceeding from the violation of Federal Law by the bankruptcy judge and his appointed trustee warrants an investigation by the U. S. Department of Justice, as previously stated, which is overdue. The ex-parte contacts throughout these proceedings, at times in excess of two (2) hours, this court would have to assume dishonesty. abuse, conspiracy, fraud, malice, collusion, and even a form of corruption, unexcused by this Court. The Debtors agree, the U. S. Department of Justice should become involved and a Petition for a Writ of Certiorari be issued.

/s/ Ben W. Allustiarte
BEN W. ALLUSTIARTE
DEBTOR BKS No. 79-3763-D-XII

/s/ Linda M. Allustiarte,
LINDA M. ALLUSTIARTE
DEBTOR BKS No. 79-3764-D-XII